

# **EXHIBIT “D”**

ORIGINAL

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GARY B. FREEDMAN, : NO.  
ESQUIRE, Administrator: 2:13-CV-3145-CDJ  
of the ESTATE OF :  
ABRAHAM STRIMBER, :  
deceased, and :  
BRACHA STRIMBER :  
:  
v. :  
:  
STEVEN FISHER, M.D., :  
et al. :

February 24, 2014

Oral deposition of STEVEN  
FISHER, M.D., taken pursuant to notice,  
was held at Abington Memorial Hospital,  
1200 Old York Road, Abington,  
Pennsylvania 19001, beginning at 9:14  
a.m., on the above date, before Holli  
Goldman, a Court Reporter and Notary  
Public in and for the Commonwealth of  
Pennsylvania.

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(Whereupon, Exhibit Fisher-1  
 was marked for identification.)

(It is hereby stipulated and  
 agreed by and among counsel for  
 the respective parties that  
 sealing, filing and certification  
 are waived; and that all  
 objections, except as to the form  
 of the questions, be reserved  
 until the time of trial.)

STEVEN FISHER, M.D., after  
 having been duly sworn, was  
 examined and testified as  
 follows:

## EXAMINATION

BY MR. AUSSPRUNG:

Q. Good morning.

A. Good morning.

Q. Could you state your full

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1 MS. BAR: I'm sorry. Can  
2 you keep your voice up a little  
3 bit?  
4 MR. AUSSPRUNG: Me or him?  
5 MS. BAR: The doctor.  
6 Sorry.  
7 THE WITNESS: I feel like  
8 I'm shouting, otherwise, but I  
9 forgot that you were at that end.  
10 MR. AUSSPRUNG: The lawyer  
11 for the hospital would like to  
12 hear your answers. She actually  
13 represents Dr. Turner, so --  
14 BY MR. AUSSPRUNG:  
15 Q. Did you have one  
16 conversation or more than one  
17 conversation with Dr. Turner, or do you  
18 just not know?  
19 A. I had at least one  
20 conversation with Dr. Turner.  
21 Q. You remember one  
22 conversation?  
23 A. I do. Although, some of  
24 that is certainly -- my recollection is

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1 based upon the review of the chart.  
2 Q. I understand.  
3 Your conversation with  
4 Dr. Turner, was it face to face, on the  
5 phone, or some other way?  
6 A. It was face to face.  
7 Q. Okay. So she came down to  
8 the emergency department?  
9 A. Correct.  
10 Q. Tell what you remember about  
11 that conversation.  
12 A. I remember that we were  
13 perplexed as to the source of this  
14 gentleman's symptoms.  
15 Q. What symptoms were those?  
16 A. Abdominal pain and other GI  
17 symptoms; vomiting, diarrhea.  
18 Q. Do you remember anything  
19 else about your conversation with  
20 Dr. Turner?  
21 A. Nothing specifically.  
22 Q. Okay. There was some  
23 cardiologists involved in Mr. Strimber's  
24 care.

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1 Did you have any  
2 conversations with any cardiologists?  
3 A. I did not.  
4 Q. Other than Dr. Turner, do  
5 you have any memory of any conversations  
6 with any other attending physicians?  
7 A. No.  
8 Q. Do you remember any other  
9 conversations with any other residents,  
10 nurse practitioners, other covering  
11 people?  
12 A. No.  
13 Q. There was a nurse  
14 practitioner who --  
15 MR. CAMHI: Martinez.  
16 BY MR. AUSSPRUNG:  
17 Q. Nurse Practitioner Martinez,  
18 who later had some involvement in  
19 responding to problems that Mr. Strimber  
20 had, did you have any conversations with  
21 Ms. Martinez?  
22 A. No.  
23 Q. Do you know who she is?  
24 A. I do.

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1 Q. Would it be fair to say that  
2 once Mr. Strimber was admitted, your  
3 involvement in his care ended?  
4 A. Correct.  
5 Q. Do you know what time that  
6 was?  
7 A. Well, if I look at the  
8 chart --  
9 Q. Please.  
10 A. -- it -- I believe  
11 Dr. Turner had started her -- forgive me.  
12 This is just my portion. But I believe  
13 that she had started her portion of  
14 the --  
15 MR. CAMHI: Do you need to  
16 see the other part of the chart to  
17 answer that question, because  
18 he'll give it to you?  
19 BY MR. AUSSPRUNG:  
20 Q. Well, can you tell from the  
21 emergency department chart what time he  
22 left the emergency department?  
23 A. I can.  
24 Well, he was admitted to the

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1 observation unit at 14:09, and I don't  
2 readily have what time he left the  
3 department.

4 Q. Okay. What is the  
5 observation unit?

6 A. Forgive me. That's  
7 something that's usually recorded, when  
8 the patient leaves the department. I'm  
9 not sure why it's not on this last page.

10 MR. CAMHI: He asked you  
11 what is the observation unit.

12 THE WITNESS: The  
13 observation unit is an area that  
14 is utilized to sequester patients  
15 that are admitted to observations  
16 so that they follow more of a  
17 routine so that their care can be  
18 coordinated and expedited.

19 BY MR. AUSSPRUNG:

20 Q. My question is little more  
21 simplistic than that, what I intended.

22 That's an inpatient area?

23 A. No. It's technically an  
24 outpatient area.

1 physician anymore once he went to the  
2 observation area, correct?

3 A. Correct.

4 Q. So once Mr. Strimber gets in  
5 the observation area, was it your  
6 understanding that Dr. Turner and the  
7 physician assistant in the area were  
8 providing care?

9 A. Correct.

10 Q. All right. What was  
11 Mr. Strimber chief complaint in the  
12 emergency department?

13 A. What he provided to me or --

14 Q. Yes.

15 A. Abdominal pain.

16 Q. Okay. Why on the very first  
17 page of patient data, where it says  
18 "Complaint" at the top, does it say,  
19 "Complaint: Chest pain"?

20 A. That would have been  
21 generated by the nurse who met him at the  
22 triage window, I believe.

23 Q. So that is a field that is  
24 filled in by that triage nurse?

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1 Q. Is it part of the emergency  
2 department?

3 A. It is not.

4 Q. So it's technically an  
5 outpatient area where patients are  
6 observed pending being placed on a  
7 inpatient floor somewhere?

8 A. It's an area where they  
9 receive further care until they may meet  
10 criteria, if you will, to be admitted to  
11 the hospital.

12 Q. But it is not an area that  
13 is manned or staffed by emergency  
14 department personnel?

15 A. Correct.

16 Q. Who mans or staffs that  
17 area?

18 A. A physician assistant under  
19 the direction of -- well, other primary  
20 care physicians as well as hospitalist  
21 teams.

22 Q. Okay. So your understanding  
23 is that the patient went to the -- and I  
24 recognize you weren't the attending

1 A. I hesitate, because it may  
2 have been something that was generated by  
3 the nurse seated at the window, but then  
4 possibly repopulated by the primary  
5 nurse. I'm not sure.

6 Q. Okay. That can be -- you  
7 say repopulated, meaning that part of the  
8 form can be changed by the nurse?

9 A. No. I -- I'm not sure. I'm  
10 not sure exactly how that was generated  
11 that day.

12 Q. Okay. Well, on the very  
13 first line, it says, "chest pain"; and  
14 then if you go down under "Triage," about  
15 five lines down, there's a spot for  
16 complaint, and it again says, "chest  
17 pain," correct?

18 A. It does.

19 Q. And the second place where  
20 it says "chest pain," there's a date and  
21 time and a nurse's initials, correct?

22 A. It does.

23 Q. And who is LS?

24 A. Lynne Stebulis.

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1 as to what ESI level a patient is?  
 2 A. The triage nurse.  
 3 Q. And is there a hospital or  
 4 emergency department written document  
 5 that lays out the criteria for each ESI  
 6 level?  
 7 A. Likely, yes.  
 8 Q. Likely or you know there is?  
 9 A. I haven't seen it.  
 10 Q. Well, ESI is a national  
 11 triage protocol, correct?  
 12 A. I understand that.  
 13 Q. You agree with me?  
 14 A. Yes.  
 15 Q. Okay. And when you look up  
 16 ESI levels, there are specific criterias  
 17 for assigning patients to different ESI  
 18 categories, correct?  
 19 A. Yes.  
 20 Q. Okay. So what are the  
 21 criteria for assigning a patient to an  
 22 ESI 2 category?  
 23 A. I --  
 24 MR. CAMHI: Go ahead. I

1 such as major traumas, cardiac arrests,  
 2 are placed in ESI Category 1, correct?  
 3 A. Yes.  
 4 Q. Okay. Patients that have  
 5 complaints that could be emergency and  
 6 life threatening are all triaged into  
 7 Category 2, correct?  
 8 A. I can't say that all  
 9 definitively are, but I think that's  
 10 reasonable, yes.  
 11 Q. Are all chest pain patients  
 12 placed in ESI Level 2?  
 13 A. I can't answer that.  
 14 Q. Does Abington Hospital or  
 15 the emergency department or your  
 16 emergency medicine group have a protocol  
 17 or policy on evaluating patients  
 18 complaining of chest pain?  
 19 A. Yes. We have a protocol  
 20 regarding EKGs.  
 21 Q. Regarding only EKGs?  
 22 A. Well, that, you know, one  
 23 needs to be obtained within a certain  
 24 interval.

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1 thought he answered the question,  
 2 but -- do you have a different  
 3 answer than the one you gave  
 4 before?  
 5 THE WITNESS: No.  
 6 MR. CAMHI: It's the same  
 7 question.  
 8 MR. AUSSPRUNG: What was the  
 9 answer?  
 10 MR. CAMHI: You actually  
 11 repeated it back. You heard it  
 12 twice.  
 13 Concerning complaint without  
 14 significant vital sign  
 15 abnormalities.  
 16 We heard it twice.  
 17 BY MR. AUSSPRUNG:  
 18 Q. What is a concerning  
 19 complaint?  
 20 A. It is a complaint that could  
 21 be indicative of significant pathology  
 22 versus in, like, an ankle strain.  
 23 Q. Okay. All patients with  
 24 emergency life-threatening conditions,

1 Q. What is the title of that  
 2 policy or procedure?  
 3 A. I don't know the specific  
 4 policy name. I'm sorry.  
 5 Q. Where is it located?  
 6 A. Likely, on the Bing.  
 7 Q. The Bing?  
 8 A. The Bing, yes.  
 9 Q. What is the Bing?  
 10 A. It's the hospital's sort of  
 11 intranet, if you will.  
 12 Q. Is it called a policy on  
 13 chest pain?  
 14 A. I mentioned I didn't know  
 15 exactly what it was called.  
 16 Q. Okay. Isn't there a  
 17 requirement for an emergency department  
 18 to have a policy on the management of  
 19 patients with chest pain?  
 20 A. Yes.  
 21 Q. Who makes that requirement?  
 22 A. Well, the hospital or, you  
 23 know, there could be some recommendations  
 24 made by societies to which the hospital

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1 would like to be engaged with.  
 2 Q. You don't know the name of  
 3 the group that requires hospitals and  
 4 emergency departments to have chest pain  
 5 protocols?  
 6 A. The Joint Commission has.  
 7 Q. Thank you.  
 8 The Joint Commission  
 9 requires a chest pain protocol; and  
 10 Abington Hospital has one, right?  
 11 A. Right.  
 12 Q. Okay. Have you reviewed  
 13 that prior to today?  
 14 A. No.  
 15 Q. When was the last time you  
 16 looked at that?  
 17 A. I don't recall.  
 18 Q. Is it located here in the  
 19 emergency room?  
 20 A. On the Bing.  
 21 Q. Can you get it for us?  
 22 MR. CAMHI: Right now? No.  
 23 MR. AUSSPRUNG: Why not?  
 24 MR. CAMHI: Because you're

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1 not going to.  
 2 Do you have another  
 3 question?  
 4 MR. AUSSPRUNG: Well, I  
 5 already requested this in  
 6 Interrogatories --  
 7 MR. CAMHI: Right. I  
 8 believe we have 30 days to  
 9 respond.  
 10 MR. AUSSPRUNG: Okay. Well,  
 11 we can come back and talk about  
 12 that if you'd like, or we can have  
 13 him print it out, you can look at  
 14 it, and we can talk about it now.  
 15 MR. CAMHI: We're not  
 16 printing it out. You can ask  
 17 another question.  
 18 MR. AUSSPRUNG: Okay. I  
 19 just want to make it clear that  
 20 I'm going to have to ask him  
 21 questions about the chest pain  
 22 protocol of the hospital, so I  
 23 will -- I guess you're going to  
 24 make me file a motion to bring him

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1 back and ask those questions?  
 2 MR. CAMHI: Yes. I mean,  
 3 why didn't you ask for that policy  
 4 months ago when you filed a  
 5 lawsuit? You could have had it  
 6 months ago.  
 7 MR. AUSSPRUNG: I believe  
 8 all relevant documents were  
 9 requested.  
 10 MR. CAMHI: I'm not sure  
 11 what relevance that document has  
 12 to this case, but --  
 13 MR. AUSSPRUNG: The chest  
 14 pain protocol?  
 15 MR. CAMHI: Yes. But you  
 16 can ask --  
 17 MR. AUSSPRUNG: The  
 18 complaint was chest pain.  
 19 MR. CAMHI: Do you have any  
 20 questions you want to ask?  
 21 MR. AUSSPRUNG: Yes. I'd  
 22 like to know why that protocol  
 23 hasn't been provided to me prior  
 24 to today's deposition.

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1 MR. CAMHI: Okay. It will  
 2 be provided to you in accordance  
 3 with the federal rules of civil  
 4 procedure, so that would be the  
 5 reason why I haven't provide it.  
 6 I believe I was first made  
 7 aware of the question within the  
 8 last two weeks.  
 9 BY MR. AUSSPRUNG:  
 10 Q. And we have the ability to  
 11 print that out today, correct, Doctor?  
 12 MR. CAMHI: You need to ask  
 13 another question and move on.  
 14 MR. AUSSPRUNG: No, I don't.  
 15 I can ask whatever questions I  
 16 want to.  
 17 You can instruct him not to  
 18 answer if you want. That's the  
 19 way it works.  
 20 MR. CAMHI: Okay. Well,  
 21 he's already answered your  
 22 question, so what's the next  
 23 question?  
 24 BY MR. AUSSPRUNG: